

Notice of Allowability

Application No.

10/040,597

Examiner

D. I. Lee

Applicant(s)

KRICHEVER ET AL.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 6/3/04.
2. ☒ The allowed claim(s) is/are 21-33.
3. ☒ The drawings filed on 10/25/01 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☒ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

DETAILED ACTION

1. Receipt is acknowledged of the Amendment filed 03 June 2004. Claims 1-20 have been canceled and claims 21-33 have been newly added. Currently, claims 21-33 are pending in this application.

Allowable Subject Matter

2. Claims 21-33 are allowed.

3. The following is an examiner's statement of reasons for allowance:

Barkan discloses a portable instrument such as a scanner for electro-optically reading coded indicia over an extended range of working distances. The portable device includes a) a housing having a size and a shape configured to be held in a user's hand during reading; b) a plurality of electrical and optical components supported by the housing, for directing a light beam along an optical path (i.e., path defined by the direction of the light beam) toward the indicia for reflection therefrom and for detecting light reflected from the indicia over a field of view, one of the components such as the optics systems that is movable between first and second positions (i.e., in and out of the optical path) in which said one of the components is operative for optically modifying at least one of the light beam and the reflected light at first and second optical areas, respectively, and another of the components being an actuatable scanner for scanning at least one of the light beam and the field of view, and c) a manual actuator mounted on the housing for actuation by the user, and being operative for manually moving said one of the components between the first and second positions to selectively optically modify said at least one of the light beam and the reflected light at the first and second optical areas, respectively, i.e., the trigger is a two position trigger having a first switching position and a second switching position, such that the first switching position of the trigger is used for moving one of the optics systems between the first and second positions to selectively and optically modify said at least one of the light beam and the reflected light at the first and second optical areas, the trigger is also used for manually actuating the scanner to initiate reading by

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positioning the trigger in a second switching position, and d) an element (a moving mechanism including a lens drive that physically engaged with and compressed by movement of the optical component, e.g., the lens the physically moving operation of the moving mechanism is not specifically shown, to one of the position, i.e., the moving operation of the moving mechanism positioning the lens to one of the position, such as near range), the element being operative for urging and restoring the one of the optical components (i.e., the lens) to the other of the positions (i.e., far range) upon release of the actuator by the user (i.e., the position trigger having a plurality of positions or depressed position). Barkan further teaches that the actuator is a trigger manually actuatable and mechanically connected the one of the components for and being operative for moving the one of the components between the first and second position.

Kobayashi discloses a camera having a close-up lens that may be selectively movable into and out of the optical path to selectively provide photographic condition. Wherein the lens frame supports the close-up lens. The lens frame having a switching means (a manual actuator which mounted on the camera body) for slidingly move the close-up lens into and out of the optical path, i.e., the actuator mounted on the camera housing for movement by the user and mechanically and operatively connected to the lens for manually and directly moving the lens between the first and second position by the selector.

Fujibayashi discloses an image forming apparatus having a light source and a field lens capable of moving on the optical path. The field lens having a positive refracting power capable of moving on the optical axis by an optical moving means, such as a motor and a position control circuit to provide a high magnification.

Plesko discloses a stylus bar code scanner having a narrow, elongated housing extending along an axis between opposite end regions, and having a size and shape configured to be held in a user's hand during scanning process which includes an aiming (pointing) mode and a reading mode, aiming the target

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during the pointing mode for moving the light in a pattern over the target and creating a visual display on a target, i.e., generating the laser light beam as a visible beam.

Huang discloses a portable, dual-use device for marking surface and an optical instrument. The dual-use device is supported by the housing having a combination of laser pointer at one end and a marking implement such as a ballpoint pen unit at the opposite end regions of the housing capable of marking on paper. The housing bounds an interior in which the internal component is accommodated. The housing as separable portions, which upon separation, enable access to the interior and an exterior clip for clipping the housing to a part of the user's clothing

One of ordinary skill in the art would not have been motivated to modify the teachings of Barkan, Kobayashi, Fujibayashi, Plesko, and Huang, alone or in combination with other reference, in order to arrive the claimed portable instrument for reading coded indicia over an extended range of working distances having a resilient element engaged with and compressed by movement of the component that is movable between the first and second positions operative for optically modifying at least one of the light beam and the reflected light at the first and the second optical area to one of the positions by the actuator and further said resilient element being operative for urging and restoring the movable component to the other position upon release of the actuator by the user, as set forth in the claim.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to D. I. Lee whose telephone number is (571) 272-2399. The examiner can normally be reached on Monday through Thursday from 5:30 AM to 4:00 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on (571) 272-2398. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "D. I. Lee".

D. I. Lee
Primary Examiner
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D. L.